

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
KNOXVILLE DIVISION

INSTALLED BUILDING PRODUCTS, LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 3:06-CV-5
	:	
MICHAEL DREIER, ROBERT DREIER, and	:	
LEONARD DREIER, III a/k/a BUTCH	:	
DREIER,	:	
	:	
Defendants.	:	

**CONSENT CONFIDENTIALITY ORDER**

The Court recognizes that discovery in this lawsuit may require the parties to produce or reveal alleged confidential and proprietary information that should be protected against disclosure and use by the parties and by others outside the confines of this case. Having reached agreement on the proper method of protecting such information, the parties to this action consent to the entry of this confidentiality order. Based thereon and for good cause shown, it is hereby ORDERED as follows:

1.

As used herein, "Confidential Information" shall mean all documents, testimony, information, and all other tangible or intangible matters which are produced or otherwise disclosed by the parties during the course of this action, provided that such Confidential Information shall be stamped as either "Confidential" or "Attorneys' Eyes Only" by the producing party.

Confidential Information stamped “Confidential” shall be treated by the party to whom disclosed as confidential and shall not be disclosed to others except as herein expressly permitted.

Confidential Information stamped “Attorneys’ Eyes Only” shall be treated by the counsel for the party to whom such information is disclosed as confidential and shall not be disclosed to others, including their clients, except as herein expressly permitted.

2.

If a party disagrees at any time with the designation of any Confidential Information as “Confidential” or “Attorneys’ Eyes Only” pursuant to this Order, the parties agree to meet and confer through counsel to attempt to resolve such disagreement. If the parties are unable to reach agreement on the issue, either party may petition the Court to resolve the dispute. The contested Confidential Information will be treated as “Confidential” or “Attorney’s Eyes Only,” as so designated by the producing party, until the Court resolves the issue.

3.

Confidential Information stamped “Confidential” shall be used solely for the purpose of preparing for trial and the trial of this action (including any appeals) and shall not be used for any other purpose whatsoever, and shall not be given, shown, disclosed, made available or communicated in any way to anyone other than:

a) the attorneys for the parties in this action, including attorneys employed directly by the parties, and the associates and employees of such attorneys who are assisting them with respect to this litigation;

b) independent experts and/or outside consultants retained by the attorneys in this action and the employees of such independent experts and/or outside consultants who are assisting them with respect to this litigation;

c) the parties and the officers, employees and representatives of the parties to the action who are expected to testify at trial or any hearing or who are necessary for the preparation of the parties' case for trial, hearing, or deposition;

d) court reporters, courtroom personnel in attendance at the trial of this proceeding, and jurors; and

e) witnesses who the parties reasonably anticipate to testify at trial or who are necessary for the preparation of the parties' case for trial, hearing, or deposition.

4.

Confidential Information stamped "Attorneys' Eyes Only" shall be used solely for the purpose of preparing for trial and the trial of this action (including any appeals) and shall not be used for any other purpose whatsoever, and shall not be given, shown, disclosed, made available or communicated in any way to anyone other than the following persons until such time as the Court so orders, or the parties agree in writing:

a) the attorneys for the parties in this action, including attorneys employed directly by the parties, and the associates and employees of such attorneys who are assisting them with respect to this litigation; and

b) independent experts and/or outside consultants retained by the attorneys in this action and the employees of such independent experts and/or outside consultants who are assisting them with respect to this litigation.

5.

Before any person (other than the parties to this action who consent to the entry of this Consent Confidentiality Order) may receive Confidential Information, however, such person shall be furnished with a copy of this Consent Confidentiality Order, shall agree to be bound by the terms of this Consent Confidentiality Order, shall consent to the jurisdiction of this Court, and shall execute an agreement in the form of Exhibit "A" attached hereto. Within three (3) days of giving, showing, disclosing or making available the Confidential Information, the disclosing party shall deliver to the non-disclosing party a copy of each such executed agreement.

In the case of a trial, jurors will be advised not to discuss or disclose any Confidential Information as part of the Court's general instructions not to discuss any aspect of the case with anyone during the course of the trial. In the case of any hearings or trial, courtroom personnel will be advised, outside the presence of the jury, of the confidential and proprietary nature of the Confidential Information and will be instructed by the Court to maintain the confidential nature of such information in strict conformity with the provisions of this Consent Confidentiality Order.

6.

Confidential Information shall not be used for any business, commercial, or competitive purpose or for any purpose whatsoever except in connection with this litigation.

7.

Within fourteen (14) days of the final determination of this action and any subsequent motions, all documents subject to this Consent Confidentiality Order shall be returned to the counsel for the producing party (including, without limitation, any copies, extracts, or summaries of Confidential Information). Insofar as such Confidential Information is intangible, it shall not

be used by any person who received it for any purpose whatsoever other than as expressly authorized by this Consent Protective Order.

8.

Nothing in this Consent Confidentiality Order shall limit any party in the use of its own documents or from disclosing its own confidential documents and information.

9.

This Consent Confidentiality Order is entered into without prejudice to the right of any party to apply to the Court at any time for additional protection, or to otherwise amend or modify this order.

10.

This Consent Confidentiality Order is intended to accommodate or facilitate discovery between the parties in this case and is not intended and does not act as a ruling by the Court or an acknowledgment by the parties that the materials designated as "Confidential Information" are confidential as a matter of law or fact. However, the parties have agreed to treat such materials as confidential for purposes of this litigation and shall comply with the restrictions set forth herein.

IT IS SO ORDERED, this the 1<sup>st</sup> day of <sup>Feb.</sup>~~January~~, 2006.

Thomas W. Phillips  
Honorable Thomas W. Phillips  
Judge, U.S. District Court, Eastern District of Tennessee

*[Consent Signatures on Following Page.]*

Consented and Agreed to by:

BERMAN FINK VAN HORN P.C.

By: /s/ Benjamin I. Fink (w/permission)

Benjamin I. Fink  
Georgia Bar No.261090  
(Admitted Pro Hac Vice)

3423 Piedmont Road, N.E.  
Suite 200  
Atlanta, Georgia 30305  
Telephone: (404) 261-7711  
Facsimile: (404) 233-1943  
bfink@bfvlaw.com

COUNSEL FOR PLAINTIFF  
INSTALLED BUILDING PRODUCTS,  
LLC

LAW OFFICE OF BURKHALTER,  
RAYSON  
& ASSOCIATES

By: /s/ Ronald A. Rayson (w/permission)

Ronald A. Rayson  
BPR # 13393

111 S. Central Street  
P.O. Box 2777  
Knoxville, Tennessee 37901  
Telephone: (865) 524-4974  
Facsimile: (865) 524-0172  
ron@burkhalterrayson.com

COUNSEL FOR DEFENDANT  
LEONARD E. DREIER, III

LAW OFFICES OF BRIAN KINGSLEY  
KRUMM

By: /s/ Brian Kingsley Krumm (w/permission)

Brian Kingsley Krumm  
BPR # 16785

6136 Edmondson Lane  
Knoxville, Tennessee 37918  
Telephone: (865) 865-2837  
Facsimile: (865) 938-4231  
krummbrian@msn.com

COUNSEL FOR DEFENDANTS  
MICHAEL DREIER AND ROBERT  
DREIER

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